

[REDACTED]

Employer Identification Number: [REDACTED]
Form: 1120
Tax Year: [REDACTED]

MAY 27 1993

Dear Applicant:

This is a final adverse ruling as to your exempt status under section 501(c)(15) of the Internal Revenue Code for the tax year ended [REDACTED].

This ruling is made for the following reason:

During the tax year ended [REDACTED], you were not an "insurance company" within the meaning of section 501(c)(15) of the Code.

You are required to file federal income tax returns on the above form. Based on the financial information you furnished, it appears that returns should be filed for the tax year shown above. You should file these returns with your Key District Director for exempt organization matters within 30 days from the date of this letter, unless a request for an extension of the time is granted. Returns for later tax years should be filed with the appropriate service center as indicated in the instructions for those returns. If you have any questions about this ruling, please contact the person whose name and telephone number are shown above.

Sincerely yours,

(signed) [REDACTED]

[REDACTED]
Director, Exempt Organizations
Technical Division

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

5 MAR 1992

Employer Identification Number: [REDACTED]
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(15) of the Internal Revenue Code (hereafter referred to as the Code) for the tax year ended [REDACTED], and have determined that you do not qualify for exemption for the [REDACTED] tax year for the reasons stated below.

The information submitted discloses that you were incorporated on [REDACTED]. Your articles of incorporation provide, in part, that the corporation shall be formed as an insurance company, and the general nature of its business shall be to engage in and carry on the business of: property, marine and transportation insurance, vehicle insurance, workers' compensation insurance, and surety insurance as those terms are now, or hereafter, defined by the laws of [REDACTED].

You advise that you issue single family homeowners' protection only. You have indicated that the company had no financial activity during [REDACTED] or for [REDACTED]. You advise that the company was in the process of securing an insurance license to operate as an insurance company within the state of [REDACTED] during this time period. You did not receive that license until [REDACTED]. Your annual statement for [REDACTED] discloses that you had no earned premiums for the year while you had net investment income of \$[REDACTED].

The financial data submitted for your [REDACTED] tax year discloses that you had underwriting income as follows:

Direct Written Premiums	\$ [REDACTED]
Ceded	\$ [REDACTED]
Assumed	[REDACTED]
Net Written Premiums	\$ [REDACTED]

Section 501(c)(15)(A) of the Code provides for the exemption from federal income tax of insurance companies, other than life insurance companies, if the net written premiums (or if greater, direct written premiums) for the taxable year do not exceed \$350,000.

Section 1.801-3(a)(1) of the Income Tax Regulations (hereafter referred to as the regulations) defines the term "insurance company" to mean a company whose primary and predominant business activity during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies. Thus, though its name, charter powers, and subjection to State insurance laws are significant in determining the business which a company is authorized and intends to carry on, it is the character of the business actually done in the taxable year which determines whether a company is taxable as an insurance company under the Internal Revenue Code. See also Bowers v. Lawyers Mortgage Co., 285 U.S. 182 (1932).

Rev. Rul. 68-27, 1968-1 C.B. 315, provides, in part, that the meaning of the term "insurance company" as defined in section 1.801-3(a) of the regulations is equally applicable to insurance companies other than life. See sections 1.831-1(a) and 1.831-3(a) of the regulations. Thus, the primary and predominant business activity of an organization qualifying as an insurance company must be the issuing of insurance contracts. In Rev. Rul. 68-27, since the predominant business activity of the organization was not the issuance of insurance contracts, the organization did not qualify as an insurance company.

In Inter-American Life Insurance Company v. Commissioner, 56 T.C. 497 (1971), aff'd per curiam, 469 F.2d 697 (9th Cir. 1972), the court concluded that the organization was not a life insurance company since it did not aggressively engage in life insurance business and its investment income far exceeded its earned premiums.

In Cardinal Life Insurance Co. v. United States, 300 F. Supp. 387 (N.D. Tex. 1969), rev'd on other grounds, 425 F.2d 1328 (5th Cir. 1970), the court held the taxpayer was not an insurance company since its dominant activity was as a personal holding company. In this case, the taxpayer had no premium income in two years and only insignificant premium income in three others, compared with income from other sources. The court held, inter alia, that during the years it had no premium income and issued no policies, it was not an insurance company as a matter of law.

[REDACTED]

In Industrial Life Insurance Co. v. United States, 344 F. Supp. 870 (D.S.C. 1972), aff'd, 481 F.2d 609 (4th Cir. 1973), cert denied, 414 U.S. 1143 (1974), the court held that the taxpayer was not an insurance company where its premium income was insignificant compared with its income from real estate, mortgages and investments.

In each of the cases cited above, the court said that the taxpayer's name, charter powers, and subjection to state insurance laws are significant only in ascertaining the business it is authorized to conduct. Whether the taxpayer is taxable as an insurance company must be determined by the character of the business actually done during each taxable year. In each case, the financial data indicated that the taxpayer's primary and predominant source of income was from investments and not from the issuance of insurance contracts or reinsurance of risks underwritten by insurance companies. During each year at issue, the taxpayer's investment income far exceeded its earned premiums. Moreover, the amount of earned premiums during such years was de minimis.

You have not established that your primary and predominant business activity prior to your [REDACTED] tax year was the issuance of insurance contracts or the reinsuring of risks underwritten by insurance companies. The financial data clearly indicates that your primary and predominant source of income for the years [REDACTED] through [REDACTED] was from investments and not from the issuance of insurance contracts or reinsurance of risks underwritten by insurance companies.

During each of the years [REDACTED] through [REDACTED], your investment income far exceeded your earned premiums. Thus, your primary and predominant business activity is not the issuing of insurance contracts or the reinsuring of risks underwritten by insurance companies, and you are not an "insurance company" within the meaning of section 1.801-3(a)(1) of the regulations or section 501(c)(15) of the Code. Since you are not an insurance company you do not qualify for exemption under section 501(c)(15).

Accordingly, we conclude that you have not established that you are entitled to exemption from federal income tax under section 501(c)(15) of the Code.

You have the right to protest our ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your

[REDACTED]

protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, if you have any questions about your federal income tax status, please contact your key District Director.

We are concurrently issuing a ruling letter with respect to your 1989 and subsequent tax years. This letter relates only to your tax years 1986, 1987, and 1988.

Sincerely yours,

(Signed) [REDACTED]

[REDACTED]
Director, Exempt Organizations
Technical Division

cc: [REDACTED]

cc: [REDACTED]

cc: [REDACTED]

[REDACTED]

[REDACTED]

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